

OFFICE OF THE GENERAL COUNSEL  
Division of Operations-Management

MEMORANDUM OM 06-96

September 27, 2006

TO: All Regional Directors, Officers-in-Charge,  
and Resident Officers

FROM: Richard A. Siegel, Associate General Counsel

SUBJECT: GC's New E-Filing Initiative with the Office of Appeals and  
Revised Appeals Language

The General Counsel is expanding his e-Government initiatives by permitting parties to file appeals electronically with the Office of Appeals of the General Counsel, utilizing a new e-filing system on the Agency's Web site. These would include appeals from 1) a Regional Director's refusal to issue complaints, 2) a Regional Director's compliance determination, and 3) certain Freedom of Information Act (FOIA) determinations. Currently, the Office of Appeals accepts only the electronic filing of a request for extension of time to file an appeal. Commencing on October 23, 2006, parties will be permitted to select an e-Gov link for the Office of Appeals on the homepage of the Agency's redesigned Web site to complete an electronic substitute for the "Appeal Form" (Form NLRB- 4767), and electronically submit documents to support the appeal or other documents directly to the Office of Appeals.

Copies of documents filed electronically with the Office of Appeals will also be simultaneously transmitted to Regional Offices through *eRoom* software. The Office of Appeals will continue to notify the parties and the Regional Offices by regular mail that an appeal has been accepted as timely filed. Parties who utilize the new e-filing system on the Agency's Web site will need to comply with the usual requirements to serve other parties by traditional means.

To ensure that all parties are informed of their expanded opportunity to e-file appeals and other documents, the Regions should revise the current Appeals language in the refusal to issue complaint, *Collyer* deferral, unilateral Informal Settlement Agreement and Regional compliance determination letters by October 23, 2006 as follows:

***Your Right to Appeal:*** The National Labor Relations Board Rules and Regulations permit you to obtain a review of this action by filing an appeal with the GENERAL COUNSEL of the National Labor Relations Board. Use of the Appeal Form (Form NLRB-4767) will satisfy this requirement. However, you are encouraged to submit a complete statement setting forth the

facts and reasons why you believe that the decision to dismiss your charge was incorrect.

The appeal may be filed by regular mail addressed to the General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1099 14<sup>th</sup> Street, N.W., Washington D.C. 20570-0001. A copy of the appeal should also be mailed to the Regional Director.

An appeal may also be filed electronically by using the e-filing system on the Agency's Website. In order to file an appeal electronically, please go to the Agency's Website at [www.nlr.gov](http://www.nlr.gov) and under e-Gov click on *Office of Appeals*. The Web site will contain detailed instructions on how to file an appeal electronically.

The appeal MAY NOT be filed by facsimile transmission.

***Appeal Due Date:*** The appeal must be received by the General Counsel in Washington D. C. by the close of business at 5:00 p.m. (EDT) on [the due date]. If you mail the appeal, it will be considered timely filed if it is postmarked no later than one day before the due date set forth above. If you file the appeal electronically, it also must be received by the General Counsel by the close of business at 5:00 p.m. (ET) on [the due date]. A failure to timely file an appeal electronically will not be excused on the basis of a claim that transmission could not be accomplished because the receiving machine was off-line or unavailable, the sending machine malfunctioned, or for any other electronic-related reason.

In addition, the paragraphs titled *Address for Appeal* and *Contents of Appeal* should be deleted. Finally, the remaining Appeals language, including the *Notice to Other Parties of Appeal* paragraph, should be retained. The full language of the revised Notice of Appeal is set forth in Attachment A to this memorandum.

With regard to Regional Director FOIA determinations, the appeal paragraph should be revised as follows:

***Your Right to Appeal:*** The undersigned is responsible for the determination that the records you have requested are privileged from disclosure under the Freedom of Information Act. You may obtain a review of this determination under the provisions of Section 102.117(c)(2)(ii) of the Board's Rules and Regulations by filing an appeal with the General Counsel, National Labor Relations Board, Washington, D.C., 20570 within

20 days (excluding Saturdays, Sundays, and legal holidays) from the receipt of this letter. Any appeal should contain a complete statement of the reasons upon which it is based. You may also obtain a review of this determination by using the e-filing system on the Agency's Website. In order to file an appeal electronically, please go to the Agency's Website at [www.nlrb.gov](http://www.nlrb.gov) and under e-Gov click on *Office of Appeals*. The Website will contain detailed instructions on how to file an appeal electronically.

Information about training to assist the Regions in making these changes is contained in OM 06-97. If you have any questions regarding this memorandum, please contact your Assistant General Counsel or Deputy or the undersigned.

/s/  
R.A.S.

cc: NLRBU  
Release to the Public

Attachment

Attachment A



**United States Government**

**NATIONAL LABOR RELATIONS BOARD**

**Region Sixty-Four**

**Any Street - Seventh Floor**

**Any City, Any State    Any Zip**

Telephone: (215) 597-7601

Fax: (215) 597-7658

Re: Any Case  
Case 64-CA-30000-1

Dear:

The Region has carefully investigated and considered your charge against Any Case alleging violations under Section 8 of the National Labor Relations Act.

**INSERT DRAFT DISMISSAL LANGUAGE HERE**

***Your Right to Appeal:*** The National Labor Relations Board Rules and Regulations permit you to obtain a review of this action by filing an appeal with the GENERAL COUNSEL of the National Labor Relations Board. Use of the Appeal Form (Form NLRB-4767) will satisfy this requirement. However, you are encouraged to submit a complete statement setting forth the facts and reasons why you believe that the decision to dismiss your charge was incorrect.

The appeal may be filed by regular mail addressed to the General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1099 14<sup>th</sup> Street, N.W., Washington D.C. 20570-0001. A copy of the appeal should also be mailed to the Regional Director.

An appeal may also be filed electronically by using the e-filing system on the Agency's Website. In order to file an appeal electronically, please go to the Agency's Web site at [www.nlrb.gov](http://www.nlrb.gov) and under e-Gov click on *Office of Appeals*. The Web site will contain detailed instructions on how to file an appeal electronically.

The appeal MAY NOT be filed by facsimile transmission.

***Appeal Due Date:*** The appeal must be received by the General Counsel in Washington D. C. by the close of business at 5:00 p.m. (EDT) on [the due date]. If you mail the appeal, it will be considered timely filed if it is postmarked no later than one day before the due date set forth above. If you file the appeal electronically, it also must be received by the General Counsel by the close of business at 5:00 p.m. (ET) on [the due date]. A failure to timely file an appeal electronically will not be excused on the basis of a claim that transmission could

not be accomplished because the receiving machine was off-line or unavailable, the sending machine malfunctioned, or for any other electronic-related reason.

***Extension of Time to File Appeal:*** Upon good cause shown, the General Counsel, may grant you an extension of time to file the appeal. You may file a request for an extension of time to file by mail, facsimile transmission, or through the Internet. The fax number is (555) 555-5555. Special instructions for requesting an extension of time over the Internet are set forth in the attached Access Code Certificate. While an appeal will be accepted as timely filed if it is postmarked no later than one day prior to the appeal due date, this rule does not apply to requests for extension of time. A request for an extension of time to file an appeal **must be received** on or before the original appeal due date. A request that is postmarked prior to the appeal due date but received after the appeal due date will be rejected as untimely. Unless filed through the Internet, a copy of any request for extension of time should be sent to me.

***Confidentiality/Privilege:*** Please be advised that we cannot accept any limitations on the use of any appeal statement or evidence in support thereof provided to the Agency. Thus, any claim of confidentiality or privilege cannot be honored, except as provided by the FOIA, 5 U.S.C. 552, and any appeal statement may be subject to discretionary disclosure to a party upon request during the processing of the appeal. In the event the appeal is sustained, any statement or material submitted may be subject to introduction as evidence at any hearing that may be held before an administrative law judge. Further, we are required by the Federal Records Act to keep copies of documents used in our case handling for some period of years after a case closes. Accordingly, we may be required by the FOIA to disclose such records upon request, absent some applicable exemption such as those that protect confidential source, commercial/financial information or personal privacy interests (e.g., FOIA Exemptions 4, 6, 7(C) and 7(D), 5 U.S.C. § 552(b)(4), (6), (7)(C), and 7(D)). Accordingly, we will not honor any requests to place limitations on our use of appeal statements or supporting evidence beyond those prescribed by the foregoing laws, regulations, and policies.

***Notice to Other Parties of Appeal:*** You should notify the other party(ies) to the case that an appeal has been filed. Therefore, at the time the appeal is mailed to the General Counsel, please complete the enclosed Appeal Form (NLRB-4767) and send one copy of the form to all parties whose names and addresses are set forth in this letter.

Very truly yours,

Regional Director

Enclosure:

Appeal forms

cc: Ronald Meisburg, General Counsel, NLRB, Washington, DC 20570